

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA**

BOBBY JOE MILLER,

Plaintiff,

v.

AMADOR COUNTY JAIL,

Defendant.

No. 2:21-CV-2132-DMC-P

**ORDER**

Plaintiff, a pre-trial detainee proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983.<sup>1</sup> Pending before the Court are Plaintiff's motions for leave to proceed in forma pauperis, ECF Nos. 2 and 6. Plaintiff's complaint, and service thereof by the United States Marshal if appropriate, will be addressed separately. Plaintiff has submitted the affidavit required by 28 U.S.C. § 1915(a) showing that Plaintiff is unable to prepay fees and costs or give security therefor.<sup>2</sup>

///

---

<sup>1</sup> The Court referred to Plaintiff as a "prisoner" in its prior order. A further review of Plaintiff's complaint suggests, however, that he is being detained following arrest and that he may not yet have been convicted of any crime.

<sup>2</sup> Because Plaintiff appears to be a pre-trial detainee and not a prisoner serving a sentence following a criminal conviction, the Court presumptively finds that the Prison Litigation Reform Act (PLRA) is inapplicable in this case. This finding is subject to reversal should the record more accurately reflect Plaintiff's incarceration status. Therefore, the Court's December 1, 2021, order requiring Plaintiff to submit an application to proceed in forma pauperis consistent with the fee provisions of the PLRA, will be vacated as presumed to having been issued in error.

Accordingly, IT IS HEREBY ORDERED that:

1. Plaintiff's motions for leave to proceed in forma pauperis, ECF Nos. 2 and 6, are granted; and
2. The Court's December 1, 2021, order is vacated as having been issued in error.

Dated: December 13, 2021



DENNIS M. COTA  
UNITED STATES MAGISTRATE JUDGE